
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

CLEARPLAY, INC.,

Plaintiff,

v.

DISH NETWORK, LLC, and ECHOSTAR
TECHNOLOGIES, LLC,

Defendants.

**MEMORANDUM DECISION
AND ORDER DENYING
DISH’S MOTION TO AMEND
JUDGMENT AND CONDITIONALLY
GRANT A NEW TRIAL**

Case No. 2:14-cv-00191-DN

District Judge David Nuffer

Judgment of noninfringement was entered in favor of Defendants Dish Network, LLC and EchoStar Technologies, LLC (“DISH”) on all of Plaintiff ClearPlay, Inc.’s (“ClearPlay”) causes of action.¹ DISH’s accused devices, as a matter of law, do not practice the methods of the asserted claims in ClearPlay’s asserted patents, and do not literally or under the doctrine of equivalents infringe the asserted claims.² Nevertheless, DISH seeks the judgment’s amendment and a conditional grant of a new trial (“Motion”).³

DISH’s Motion again raises arguments that DISH made when initially seeking judgment as a matter of law by motion and orally at trial.⁴ These arguments did not form the basis for the judgment of noninfringement.⁵ They were either determined to be moot based on judgment as a

¹ Judgment in a Civil Case, [docket no. 976](#), filed June 2, 2023.

² Redacted Memorandum Decision and Order Granting Dish’s Motion for Judgment as a Matter of Law (“JMOL Order”), [docket no. 974](#), filed June 2, 2023, docket no. 975, filed under seal June 2, 2023.

³ Defendants’ Motion to Amend Judgment and Conditionally Grant a New Trial, [docket no. 994](#), filed June 30, 2023, docket no. 997, filed under seal June 30, 2023.

⁴ Defendants’ Motion for Judgment as a Matter of Law, [docket no. 862](#), filed Mar. 3, 2023; Defendants’ Motion for Judgment as a Matter of Law Under Rule 50(a), [docket no. 880](#), filed Mar. 7, 2023; Trial Transcript Vol. IV (Mar. 9, 2023) at 1912:6-1913:13, [docket no. 942](#), filed Mar. 16, 2023.

⁵ JMOL Order.

matter of law being granted in favor of DISH, or rejected.⁶ DISH presents no sufficient basis for the rulings on these issues to be reconsidered. Indeed, DISH acknowledges that their renewed arguments are made under FED. R. CIV. P. 50(b) to preserve DISH's rights.⁷ It is therefore unnecessary (and improper) at this time to address the merits of arguments that were already determined to be moot. And it is unnecessary to address the merits of arguments that were already rejected.

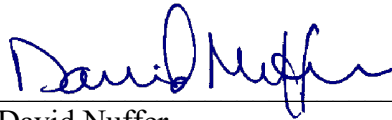
DISH's Motion also includes argument that procedural and evidentiary errors entitle DISH to a new trial.⁸ These arguments are premature. Judgment of noninfringement entered in favor of DISH.⁹ FED. R. CIV. P. 50(c)(1) requires conditional ruling regarding a new trial upon granting a *renewed* motion for judgment as a matter of law,¹⁰ but no renewed motion has been granted. And DISH acknowledges that its arguments are made to preserve DISH's right to a new trial under FED. R. CIV. P. 59 if the judgment is vacated or reversed on appeal.¹¹ It is therefore unnecessary at this time to address the merits of DISH's arguments for a new trial.

ORDER

IT IS HEREBY ORDERED that DISH's Motion¹² is DENIED without prejudice.

Signed December 12, 2023.

BY THE COURT



David Nuffer
United States District Judge

⁶ *Id.*

⁷ Motion at 1.

⁸ *Id.* at 4-65.

⁹ Judgment in a Civil Case.

¹⁰ Fed. R. Civ. P. 50(c)(1).

¹¹ Motion at 1.

¹² [Docket no. 994](#), filed June 30, 2023; docket no. 997, filed under seal June 30, 2023.